

December 13, 2013

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Room TW-B204  
Washington, DC 20554

*Re: Report and Order and Further Notice of Proposed Rulemaking WC  
Docket No. 12-375*

Dear Secretary Dortch,

LatinoJustice PRLDEF (“LatinoJustice”) files this comment in the above-referenced proceeding. LatinoJustice is a civil rights organization that has litigated precedent-setting impact cases across the country that have profoundly improved the way Latinos are treated in American society, working to ensure that they have more opportunities for political, economic, social and educational equality. As part of its commitment to addressing the contemporary civil rights issues concerning Latinos, LatinoJustice has demonstrated an unwavering interest in criminal justice and immigration issues, particularly as they affect Latinos.

LatinoJustice commends the FCC for its recent Order making interstate rates more just and reasonable, and appreciates the practical effect it will have for inmates and immigrants detained in out-of-state facilities. However, LatinoJustice recognizes the need for “just, reasonable, and fair” intrastate rates. In facilities across the country, such as the New Jersey facilities referenced below, inmates and detainees including those who are Latino rely on intrastate calls when held in their own state to maintain a connection with the outside world. LatinoJustice therefore respectfully requests that the FCC exercise its authority under Section 276 of the Communications Act (FNPRM ¶ 135) and establish reasonable intrastate phone rates for correctional institutions nationwide.

## COMMENTS

The following comments respond to the FCC’s question regarding whether states have failed to ensure just, reasonable, and fair intrastate ICS rates (FNPRM ¶ 132). These comments focus specifically on the intrastate ICS rates in New Jersey facilities which are symptomatic of a national problem.



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**I. The Intrastate Telephone Rates Imposed on Inmates and Detainees in New Jersey Facilities Are Exorbitantly Higher than the Rates Presumed to Be Reasonable for Interstate Calls.**

1. New Jersey Telephone Contracts

In New Jersey, all state facilities and many county facilities have contracted with Global Tel\*Link (“GTL”) to provide telephone services, either through New Jersey State Contract Number 61618 or independently.<sup>1</sup> The New Jersey state contract establishes the telephone rates and commission payments for state facilities and presents six options for counties to select.<sup>2</sup> The next section includes data gathered through the Open Public Records Act from the State of New Jersey and several counties: Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Ocean and Union.<sup>3</sup> Notably, none of the counties listed below has opted into one of the two state contract options with lower per-minute rates.

2. Overcharges for New Jersey Intrastate Telephone Calls

The following table illustrates the exorbitant costs for a fifteen minute telephone call in New Jersey facilities. The fourth column illustrates the significant price gap between these fifteen-minute intrastate calls and interstate calls under the safe-harbor rates recently determined by the FCC. The last column illustrates the significant price gap between these fifteen-minute intrastate calls in New Jersey and those in New York, which the FCC recently applauded for its efforts to set reasonable, affordable rates. (Report & Order ¶ 4).

<b>Prison or Jail Operator</b>	<b>Current Cost of 15 Minute Call</b>	<b>Category of Call</b>	<b>Overcharges above FCC Reasonable Rate for Interstate Calls</b>	<b>Overcharges Compared to New York<sup>4</sup></b>
<b>State of New Jersey</b>	\$4.95	Flat Rate	\$3.15 (debit) \$.285 (credit)	\$4.23
<b>Bergen County</b>	\$1.65 (debit) \$1.75 (collect)	Local	N/A	\$0.93 \$1.03
	\$4.80 (debit) \$4.95 (collect)	IntraLATA	\$3.00 \$2.85	\$4.08 \$4.23
	\$7.30 (debit) \$7.50 (collect)	InterLATA	\$5.50 \$5.40	\$6.58 \$6.78

<sup>1</sup> See [http://www.state.nj.us/treasury/purchase/noa/contracts/t1934\\_05-x-32533.shtml](http://www.state.nj.us/treasury/purchase/noa/contracts/t1934_05-x-32533.shtml).

<sup>2</sup> See N.J. Dep’t of Corrections Renewal Addendum, T-1934 Contract 61618, Exhibit A: County Rate/Commission Matrix Options (June 4, 2010), available at [http://www.state.nj.us/treasury/purchase/noa/contracts/t1934\\_05-x-32533.shtml](http://www.state.nj.us/treasury/purchase/noa/contracts/t1934_05-x-32533.shtml) (click on “County Price Matrix”).

<sup>3</sup> The information on each facility is on file with the authors of this comment.

<sup>4</sup> As the FCC noted in its Report and Order, New York charges \$0.048 per minute for all categories of calls with no per-call charges, or \$0.72 for a 15-minute call. (Report & Order ¶ 38).

<b>Essex County</b>	\$1.75	Local	N/A	\$1.03
	\$4.00	IntraLATA	\$2.20	\$3.28
	\$4.20		\$2.10	\$3.48
	\$5.50	InterLATA	\$3.70	\$4.78
	\$5.70		\$3.60	\$4.98
<b>Hudson, Middlesex, and Monmouth Counties</b>	\$2.50	Local	\$0.70/\$0.40	\$1.78
	\$4.75	IntraLATA	\$2.95/\$2.65	\$4.03
	\$7.75	InterLATA	\$5.95/\$5.65	\$7.03
<b>Hunterdon, Mercer, Ocean, and Union Counties</b>	\$3.25	Local	\$1.45/\$1.15	\$2.53
	\$5.50	IntraLATA	\$3.70/\$3.40	\$4.78
	\$8.50	InterLATA	\$6.70/\$6.40	\$7.78

These prices, much like those in other states, are not cost-based (*see* FNPRM ¶ 132). Instead, they are inflated due to, among other things, commission payments (*see* FNPRM ¶¶ 38, 132).

### 3. Local Inaction

The New Jersey Board of Public Utilities and the New Jersey State Legislature have not attempted to resolve this problem. Whether either of these entities will act in the near future is uncertain, and there are no indications to suggest otherwise. Given this uncertainty, LatinoJustice urges the FCC to step in. As the FCC recognized, if not, “the unreasonably high rates will continue, many families will remain disconnected, and the available societal benefits will not be realized.” (FNPRM ¶ 130).

## II. **Regulation of Intrastate Rates Will Benefit Inmates and Detainees, Including Those Who Are Latino.**

In New Jersey, more than 40,000 inmates and detainees are currently held in state prisons and county jails.<sup>5</sup> Of that population, more than 15 percent are Latino.<sup>6</sup> As the total population

<sup>5</sup>Prison facilities: As of January 2, 2013, there were 23,123 inmates in all prison facilities in New Jersey. N.J. Dep’t of Corrections, Offender Characteristics Report at 5 (Jan. 2013), *available at* [http://www.state.nj.us/corrections/pdf/offender\\_statistics/2013/Entire%20Offender%20Characteristics%202013.pdf](http://www.state.nj.us/corrections/pdf/offender_statistics/2013/Entire%20Offender%20Characteristics%202013.pdf). This number is comparable to that reported by the Bureau of Justice Statistics as of December 31, 2012: 23,225. Bureau of Justice Statistics, Prisoners in 2012 – Advance Counts at Table 2 (July 2013), *available at* [www.bjs.gov/content/pub/pdf/p12ac.pdf](http://www.bjs.gov/content/pub/pdf/p12ac.pdf)

Jail facilities: In 2006, there were 18,380 inmates in all jail facilities in New Jersey. Bureau of Justice Statistics, Census of Jail Facilities, 2006 (Dec. 2011), Table 9, *available at* <http://www.bjs.gov/content/pub/pdf/cjf06.pdf>. A more recent report found that, on any given day, county jails have in their custody approximately 15,000 inmates. Luminosity & Drug Policy Alliance, New Jersey Jail Population Analysis at 1 (Mar. 2013), *available at* [www.drugpolicy.org/sites/default/files/New\\_Jersey\\_Jail\\_Population\\_Analysis\\_March\\_2013.pdf](http://www.drugpolicy.org/sites/default/files/New_Jersey_Jail_Population_Analysis_March_2013.pdf)

<sup>6</sup> Prison facilities: As of January 2013, sixteen percent of all state correctional institution offenders in New Jersey were Hispanic. Offender Characteristics Report, *supra* note 5, at 36.

Jail facilities: In New Jersey, 18.8% of male inmates in jails were reported as Hispanic, and 10.2% of female inmates in jails were reported as Hispanic. New Jersey Jail Population Analysis, *supra* note 5, at 9.

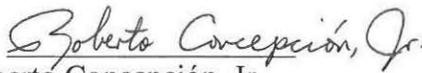
of Latinos in New Jersey continues to increase,<sup>7</sup> the importance of reasonable intrastate rates to Latino inmates and detainees and their support networks will only increase as well. To protect this sizeable population from exorbitant telephone rates, the FCC should adopt reforms of intrastate ICS rates for many of the same reasons the FCC recognized the need to adopt reforms of interstate ICS rates. Lower telephone intrastate rates result in increased communications between incarcerated or detained persons and their families and larger support networks (FNPRM ¶ 131) which have been linked to positive effects, including reducing recidivism, improving the quality of legal representation, and providing cost savings to the justice system (FNPRM ¶¶ 42-44, 131). The fact that intrastate calls represent a significant percentage of ICS calls only increases the need for the FCC to act (FNPRM ¶ 131).

### CONCLUSION

LatinoJustice applauds the FCC's recent decision to ensure that inmates and immigration detainees nationwide pay just, reasonable, and fair interstate telephone rates. Unfortunately, the State of New Jersey has not embarked on a similar course of action for intrastate telephone rates. Instead, New Jersey, through its inaction, has given its stamp of approval to charging intrastate rates higher than interstate rates the FCC has deemed reasonable. For this reason, LatinoJustice respectfully requests that the FCC exercise its authority under Section 276 of the Communications Act to regulate intrastate rates.

Sincerely,

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<sup>7</sup> Compare U.S. Census Bureau, State & County Quick Facts, New Jersey (18.5% Latino population in 2012), available at <http://quickfacts.census.gov/qfd/states/34000.html>, with U.S. Census Bureau, Profile of General Population and Housing Characteristics, 2010 Demographic Profile Data (17.7% Latino population in 2010), available at <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>, with U.S. Census Bureau, Profile of General Demographic Characteristics: 2000 (13.3% Latino population in 2000), available at <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.